

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSEPH TODD MCKECHNIE,

Defendant-Appellant.

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UNPUBLISHED

April 15, 2003

No. 238745

Oakland Circuit Court

LC No. 2001-179004-FC

Before: Jansen, P.J., and Kelly and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right from a jury conviction of carjacking, MCL 750.529a, for which he was sentenced as an habitual offender, fourth offense, MCL 769.12, to twenty to forty years' of imprisonment. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first contends that the trial court erred in excluding relevant impeachment evidence during the cross-examination of witness Raymond Emmons. The trial court's ruling on an evidentiary issue is reviewed for an abuse of discretion. *People v Gould*, 225 Mich App 79, 88; 570 NW2d 140 (1997). However, this issue is tied to defendant's constitutional right of confrontation and constitutional errors are reviewed de novo on appeal. *People v Rodriguez*, 251 Mich App 10, 25; 650 NW2d 96 (2002).

This issue has been waived because defendant agreed with the trial court's ruling that the matter was appropriate for exploration with witness George Hartley rather than with Emmons. *People v Carter*, 462 Mich 206, 215, 220; 612 NW2d 144 (2000); *Rodriguez, supra*, 251 Mich App 32. Even if the issue had not been waived, preserved nonstructural constitutional errors are subject to harmless error analysis. *People v Graves*, 458 Mich 476, 482; 581 NW2d 229 (1998); *People v Minor*, 213 Mich App 682, 688; 541 NW2d 576 (1995). Given that the victim identified defendant as her assailant, that defendant has not shown that Hartley did in fact disregard an outstanding warrant in exchange for Emmons' information about the case or that Emmons received anything in exchange for his testimony at trial, and that defendant was able to effectively impeach Emmons' credibility by other means, *People v Von Everett*, 156 Mich App 615, 623-624; 402 NW2d 773 (1986), we conclude that the error was, undoubtedly, harmless.

Defendant next contends that he was denied due process because of impermissibly suggestive pretrial identification procedures. This issue has not been preserved because

defendant did not object to the admission of the lineup identifications or the victim's identification testimony or move to suppress same. *People McCray*, 245 Mich App 631, 638; 630 NW2d 633 (2001); *People v Daniels*, 163 Mich App 703, 710; 415 NW2d 282 (1987). Having reviewed the record, we find that defendant has failed to establish plain error with respect to the identification testimony. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

Defendant lastly contends that the trial court erred in admitting other acts evidence in violation of MRE 404(b)(1). This issue has not been preserved for appeal because defendant did not object at trial. MRE 103(a)(1); *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2001). A review of the record shows that the prosecutor did not introduce other acts evidence at trial. Consequently, we find that defendant has failed to establish plain error. *Carines, supra*.

Affirmed.

/s/ Kathleen Jansen  
/s/ Kirsten Frank Kelly  
/s/ Karen M. Fort Hood